

IN THE MATTER OF	*	BEFORE THE
<u>SAMUEL AND MICHAELINE YAFFE</u>	*	
AND SPARKS-GLENCOE COMMUNITY	*	BOARD OF APPEALS
PLANNING COUNCIL, PETITIONERS FOR	*	
SPECIAL HEARING ON THE PROPERTY	*	OF
LOCATED AT 2800 MONKTON ROAD	*	
RAYMOND AND SANDRA FRANK,	*	BALTIMORE COUNTY
LEGAL OWNER AND RESPONDENT	*	
INVERNESS BREWING, LLC, RESPONDENT	*	Case No.: 19-541-SPH

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County on an appeal of a January 21, 2021 Opinion and Order of the Administrative Law Judge and a February 16, 2021 Order on Motion for Reconsideration (collectively, the “2021 Order”), both regarding a Petition for Special Hearing to determine if the Administrative Law Judge Order of August 8, 2017 (the “2017 Order”) and the uses approved as a special exception for a Class 8 Farm Brewery known as Inverness Brewery in the R.C. 2 zone had been exceeded.

The Petition was filed by Samuel and Michaeline Yaffe and the Sparks-Glencoe Community Planning Council by their attorney, Michael R. McCann, Esquire. The Respondents/Owners are Raymond and Sandra Frank and Inverness Brewing, LLC, who were the original petitioners and are represented by Christopher D. Mudd, Esquire and Adam M. Rosenblatt, Esquire, of Venable, LLP. Also participating were Caroline Owens, represented by Mark S. Dachille, Esquire, and Richard and Adele Reinhardt, represented by Mr. Reinhardt, who is an attorney. Carole S. Demilio, Deputy People’s Counsel for Baltimore County also participated.

The Board conducted a hearing on preliminary motions on June 8, 2021, on which a public deliberation was held and those motions ruled upon on July 27, 2021. Four days of hearings on substantive matters were held on April 26 and 27, 2022 and May 11 and 12, 2022.

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A public deliberation was held on July 12, 2022. All hearings and deliberations were held virtually as provided by the Board's rules.

Issues raised in the Petition for Special Hearing are:

1. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events or gatherings" under the Administrative Law Judge's Opinion and Order dated August 8, 2018?
2. Whether the property owner has held more than eight (8) "temporary promotional events or gatherings associated with the brewery per year" permitted under the Opinion and Order dated August 8, 2018?
3. Whether the use of the subject property otherwise complies with the Opinion and Order of August 8, 2018?
4. Whether good cause exists to modify the restrictions in the Opinion and Order dated August 8, 2018?
5. Whether the use of the subject property is a "Brewery, Class 8" as defined in §101.1 of the Baltimore County Zoning Regulations?
6. Whether the use of the subject property is "agricultural support use" under §1A01.2.C.30 of the BCZR?
7. Whether the use of the subject is a "Brewery, Class 7 or 8" under §1A01.2.C.30 of the BCZR?
8. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events, such as beer tasting or public gatherings associated with the brewery" under [sic] §1A041.2.C.30.j of the BCZR?
9. Whether the use of the subject property otherwise complies with the BCZR?
10. Whether the use of the subject property otherwise complies with applicable policies, laws and regulations?

For the reasons discussed below, the Board of Appeals finds that the subject property operates as a Brewery, Class 8, pursuant to BCZR 1A01.2.C.30.j, and the operation is not in violation of the Opinion and Order dated August 8, 2017 in Case No. 2017-0327-X, subject to the conditions therein. However, the Board found that the Respondents/Owners are in violation of the site plan filed in that case.

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FACTUAL BACKGROUND

Inverness Brewery is located at 2800 Monkton Road on an RC 2 farm property (the “Property”) owned and operated by Raymond and Sandra Frank. The 92.325 ± acre farm is bounded by three roads: Markoe Road, Monkton Road, and J.M. Pearce Road, and is improved by the Frank’s residence as well as by a barn and other agricultural outbuildings. Mr. and Ms. Frank acquired the Property in 2001 and have made substantial improvements since then. Primary access to the Frank’s residence is from Monkton Road, while access to the Brewery is from Markoe Road. There is also a farm road with access to J.M. Pearce Road.

In 2017, the Franks applied for, and were granted, a special exception to operate a brewery, Class 8, including accessory retail and wholesale distribution of beer produced on the premises, and to hold temporary promotional events (sometimes herein referred to as “Events”). At that time, ALJ Beverungen found that while concerns over noise, traffic, odors and a commercial operation in a rural setting were valid, most special exception uses have such adverse impacts, citing *Montgomery County v. Butler*, 417 Md. 271 (2020).

The ALJ granted the special exception subject to several conditions;

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must comply with the ZAC comment of DEPS, a copy of which is attached hereto.
3. Prior to issuance of permits Petitioners must submit for approval by the DOP a schematic plan showing the location of any dumpster used for this facility, which must be screened in accordance with the requirements of the landscape manual.

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4. The brewery shall be permitted to produce, sell and/or distribute no more than 5,000 barrels of malt beverage per year.

5. The hours of operation shall be restricted to Thursday-Sunday from 12 noon to 8:00 p.m., although certain special events (discussed below) may be held Thursday-Sunday from 12 noon to 10:00 p.m.

6. Petitioners may hold no more than eight (8) temporary promotional events or gatherings associated with the brewery per year.

7. After the proposed brewery has been in operation for one year, the restrictions contained herein are subject to modification following a public hearing, upon a showing of good cause.

In December, 2019, the Petition for Special Hearing was filed by Mr. and Ms. Yaffe and the Sparks-Glencoe Community Planning Council. On January 21, 2021, Administrative Law Judge Mayhew issued an Opinion and Order providing an interpretation of the original conditions imposed by ALJ Beverungen. Upon Motion for Reconsideration, ALJ Mayhew issued an Order denying Respondent Frank's motion, denying Petitioner's Cross-Motion, and granting Dr. Owen's Cross-Motion.

Respondents noted a timely appeal to the Board of Appeals of both of ALJ Mayhew's decisions. The Board heard the case *de novo*.

APPLICABLE LAW

Baltimore County Zoning Regulations

§101 Definitions:

AGRICULTURE, COMMERCIAL — The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to § 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquiculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or

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distributing, provided that any such activity shall be secondary to the principal agricultural operations.

BREWERY, CLASS 8 — A brewery located on a minimum of ten acres with a Class 8 (farm brewery) license, which sells and delivers malt beverage manufactured in a facility on the licensed farm with an ingredient from a Maryland agricultural product grown thereon, and produces no more than 15,000 barrels of malt beverage per year.

§1A01.2.A - Use regulations. RC 2

Preferred use permitted as of right. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in R.C.2 Zones.

§1A01.2.C.31. (j) – Uses permitted by Special Exception in the RC 2 zone

Brewery, Class 7 or Class 8, including accessory retail and wholesale distribution of beer produced on the premises. Temporary promotional events, such as beer tasting or public gatherings associated with the brewery, are permitted subject to approval by the Administrative Law Judge or Board of Appeals on appeal.

§1A01.5. - Inconveniences arising from agricultural operations.

Any dwelling, business or use in or near an R.C.2 Zone may be subject to inconveniences or discomforts arising from agricultural operations, including but not limited to noise, odors, fumes, dust, the operations of machinery of any kind during any 24-hour period (including aircraft), the storage and disposal of manure and the application, by spraying or otherwise, of chemical fertilizers, soil amendments, herbicides and pesticides. The County shall not consider an agricultural operation to be a public or private nuisance if the operation complies with these regulations and all federal, state or County health or environmental requirements; except that during the period between 10:00 p.m. and sunrise as defined by the National Weather Service for sunrise on the particular day in the Baltimore area, an agricultural operation may not fire or otherwise discharge an air cannon or similar device that releases a loud shotgun-like blast within 500 feet of an adjacent residential dwelling.

§501.7. - Affirming, modifying or reversing of decisions.

The decision and order of the Board of Zoning Appeals may affirm or reverse in whole, or in part, any decision or order of the Zoning Commissioner, or may modify the order appealed from and direct the issuance of a permit for such

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modified use as it may deem proper, subject, however, to zoning regulations and restrictions.

§502.1. - Conditions determining granting of special exception.

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C. 3, R.C. 6, and R.C. 8 Zones.

§502.2. - Protection of surrounding properties; agreement governing special exception.

In granting any special exception, the Zoning Commissioner or the Board of Appeals, upon appeal, shall impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties.

Also, BCZR § 500.6. - Authority to conduct hearings; BCZR § 500.7. - Petitions for public hearing; notice; and, Ann. Code of Md. Alcoholic Beverages Sections 2-140 and 2-210.

WITNESS TESTIMONY

On the first day of hearings, the Board heard argument on preliminary matters filed by counsel: a Motion to Dismiss and for Summary Judgment, and a Motion to Quash, filed on

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behalf of Inverness, as well as responses thereto. The Board denied the Motions to Dismiss and for Summary Judgment. As to the other matter, the Board reserved judgment until the conclusion of the hearing. The issue of the subpoenas or Motion to Quash was not raised during testimony, therefore the Board finds that the issue is MOOT.

Hearings on the merits commenced on April 26, 2022. As in the hearing before Administrative Law Judge Mayhew, the testimony of Petitioner's witnesses and that of Respondents witnesses were in direct contradiction of one another, particularly with regard to noise and traffic.

After opening statements from counsel, Petitioner's counsel, Mr. McCann called Sandra Frank as his first witness. Ms. Frank testified to the history of the farm since she and her husband acquired it in 2001, and which, in 2002, they subjected to a conservation easement. In 2017, the Franks filed a Petition for Special Exception for a Farm Brewery, Class 8, which was granted by ALJ Beverungen in Case No. 2017-0327-X.

Ms. Frank testified to the operation as envisioned at the 2017 hearing, which she described as a small system and level of production, to be located in a part of the stable area, together with a tasting room. The brewery was not to be rented for private parties, nor did she envision expanding the operation. Upon questioning by Mr. McCann, Ms. Frank testified that a 'walk-in' cold box was added for storage, and that there is also a trailer for food sales, which sales are fully licensed. Both the cold box and the trailer are moveable.

Mr. McCann also asked about access to the brewery. Ms. Frank responded that originally, Monkton Road provided access, but for safety reasons, that entrance was closed and Markoe Road became the main access to the brewery. When asked about parking, she

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indicated that at the original hearing, the paddock area was proposed for overflow parking. She also testified that hops grown on the farm are used to brew the beer produced there.

When questioned about live music being played at the brewery, Ms. Frank acknowledged that there is live music, but not loud music. She indicated that having live music is standard practice at farm breweries in this area. She was also questioned about promotional events held at Inverness, as permitted and as limited by the ALJ's order, and whether or not these exceeded eight (8) occasions a year. She testified that there are no more than eight Events a year.

In response, Ms. Frank indicated that during day-to-day operations, fewer than 150 people visit the site, and attendance is highly dependent on weather. With the advent of COVID, weekend attendance increased because the brewery provided an outdoor, family friendly venue. When questioned by Mr. Rosenblatt, Ms. Frank confirmed that the 2017 order limited the number of barrels to be produced, but did not limit either the number of beer taps or having live music. Ms. Frank also testified that the hours of operation are from noon until 8 p.m. Thursday through Sunday and until 10 pm for Events. She also testified that in response to neighbors' complaints about loud music, Inverness has limited the type of music to small groups, rather than bands, and has added a sound meter to determine decibel readings. Ms. Frank also said that there are no violation notices, despite complaints to, and inspections by, Baltimore County.

Though there was much questioning by counsel and the Board, Ms. Frank did not define a temporary promotional event, though she did attempt to distinguish some of the activities incident to an Event from those of day-to-day operations.

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Mr. Yaffe then testified. He lives at 16109 Markoe Road directly across from the brewery and has resided there for 30 years on a 10.6 acre parcel. He introduced numerous photographs of his property and drone photographs of the Inverness property. His complaints centered on intrusively loud music, causing him to retreat to his basement as the only area of his home that was quiet. Mr. Yaffe has observed heavy traffic, and feels that it overburdens Markoe Road, which is a narrow two-lane country road. He used aerial photographs taken by a drone to illustrate the large number of cars parking on the site in the paddock areas. He maintains that the traffic and noise are not in character with the “pastoral neighborhood”.

Joseph Wiley, a community planner and preservation specialist with the Office of Planning was called to testify. His responsibilities involve inspections of agricultural properties and compliance with easements. In that capacity, he prepares information for the Agricultural Preservation Board and provides staff support to that Board. As such, he is familiar with Inverness Farm and visited the site. He testified that approval of the brewery by the Agricultural Board was based on his recommendation. He acknowledged receiving complaints from neighbors raising zoning issues, and that regulation of zoning issues are not related to the agricultural easement. He also confirmed that in 2021, upon application from the Franks, the Agricultural Preservation Board approved an enlarged parking area at the farm brewery.

The next witness was Renee Hamidi, currently the Executive Director of the Valleys Planning Council. Prior to August, 2021, she was director of the Manor Conservancy for which she was authorized to speak before the Board. Ms. Hamidi testified at length about the advertising and online promotions on social media for activities at the brewery, including some

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involving cover charges or ticket requirements. She prepared a spreadsheet based on her research to support the assertion that there were more than eight ‘Events’ held at the brewery and that there is no apparent way to distinguish a non-event from an Event.

Caroline Owens, of 16413 J. M. Pearce Road testified next. Her home is located across that road from the farm road serving the Inverness Farm. Ms. Owens testified to the loud music that had previously been an issue, but acknowledged that since the 2021 Order, loud music is no longer a problem.

Ms. Owen’s major concern is that J.M. Pearce Road not be used for ingress and egress for the brewery, but be limited to farm use. An associated issue involves a large area that has been cleared and graded, as shown by a drone photograph. Her concern was that this area was being leveled to park cars visiting the brewery or equipment associated with Mr. Frank’s business. Her request was that the cleared area be limited to agricultural buildings, storage and farm equipment. At this point, counsel for Inverness, stipulated that these conditions were agreeable. As such, they will be incorporated in the Board’s findings and order.

Adele Reinhardt testified at length. She and her husband live at 16209 Markoe Road, opposite the brewery barn and entrance road, which they can see from their property. Over time, Ms. Reinhardt’s initial support for the brewery paled as traffic, crowds and noise increased. She attributed the traffic on Markoe Road to the Frank’s closing the Monkton Road entrance. Her personal observations were of crowds every weekend, congestion on the road and the occurrence of several accidents, though she did acknowledge the weather dependent nature of these conditions.

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Respondent's first witness was Kevin Atticks of Grow and Fortify, a private consultant supporting vintners and breweries to insure that they comply with state and local permitting. He also provides education about brewing and promotes local beers. Mr. Atticks has represented the Brewers Association of Maryland of which Inverness Farms is a member. Mr. Atticks was involved with the Baltimore County Office of Economic Development and Tourism in advocating, adopting and amending alcoholic beverage laws to permit farm breweries, including recent changes to the state alcoholic beverage statute.

Mr. Atticks testified about operations at farm breweries in the area as typically occurring on a farm with agricultural activities and buildings, brewing beer and storing beer on site, and offering beer products for sale. Ordinarily there is a lot of open space for public gathering, music and on-site parking. Mr. Atticks explained that there is no definition in the law for a special event. He further testified that a farm brewery is considered agriculture and agricultural tourism. In fact, Baltimore County's Visitor's Guide promotes agri-business and tourism and features local farm breweries.

Upon cross-examination, Mr. Atticks testified that the state licensing law no longer addresses promotion events or the need to obtain a permit for these. Upon questioning from Mr. Dachille, Mr. Atticks stated that the current state law has no reference to parking, live music, amplified music or walk-in refrigeration units. In response to Ms. Demilio, he stated that a Class 8 Farm Brewery must be on a farm, but there is no minimum acreage specified.

Respondent's next witness was Michael Lenhart, an expert in traffic and transportation planning who was hired by the Franks in 2021 to conduct a traffic study and look at traffic generated by the brewery. Mr. Lenhart studied the traffic during peak volume hours in both the

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autumn and the spring. He conducted a 'level of service' analysis using critical lane volume method. Mr. Lenhart concluded that levels of service on all the roads serving the brewery functioned at good levels of service, either level A or B. He described the roads as typical rural roads.

Next, Josh Curley, a consultant with Phoenix Noise and Vibration, an acoustical specialist testified as to noise levels emanating from the brewery. Measurements were taken between Friday afternoon and Monday morning at three locations, including at the property line and in the barn. As stated in his report, at the property line, noise levels from the brewery did not exceed standards set forth in COMAR §26.02.03.02. and .03.

Following Mr. Curley's testimony, a number of area residents testified in support of the brewery, noting specifically that neither sound nor traffic posed a problem.

Ryan Frank, Respondents' son who is involved in the farm operation, testified, recalling the condition of the Property when his family acquired it, the improvements they have made, and the farming operation. He identified crops grown on the farm as barley, corn and hops. There are cattle on the farm and bee hives for honey.

Mr. Frank also testified that with the brewery, areas previously occupied by livestock are now where hops are grown. He identified a wide array of equipment used on the farm, which he believes is typical and comparable to that on other farms.

When asked about community outreach in connection with the brewery, Mr. Frank said the family had engaged in outreach with neighbors to identify their concerns, noting that he encountered opposition from the Yaffes and Ms. Owens.

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Mr. Frank also told the Board of changes made at the brewery to address concerns: changing music from bands with drums to solos or small groups; adding sound monitors with an alarm system; having parking attendants; and, providing an on-site storage and planting screening to shield nearby properties.

Mr. Frank also addressed the Markoe Road entrance as being used rather than on Monkton Road, because it is safer for pedestrian, vehicular and truck traffic.

He described Inverness as a family friendly, beautiful venue with permitted and licensed food and beverage sales and live music.

Upon cross-examination, he said he considers an Event an occasion where the brewery is open after 8:00 p.m., where there could be a fee or cover charge; however, to him the number of people, type of music, advance advertising or release of a new beer are not indicators of an Event.

In rebuttal Mr. McCann called neighbors living on Markoe Road and on Old York Road, both of whom raised the issues of persistent noise and traffic. Jillian Temple, of J.M. Pearce Road testified that pre-COVID, Inverness was a quiet operation, but during 2020, became so busy that the music, traffic and headlights leaving the site, all negatively impacted her home.

DISCUSSION

In this case, as in all zoning matters that come before the Board of Appeals, the Zoning Regulations provide the framework within which the Board may act. In adopting the R.C. regulations, the Baltimore County Council made it clear that the agricultural industry is an integral part of the Baltimore County economy and created the RC 2 zone to foster conditions

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favorable to continued agricultural use. As such, agricultural uses are afforded preferential treatment over other permitted uses. A Class 8 Brewery is a principal use permitted by special exception, and the use includes, expressly, temporary promotional events as the same may be approved by the ALJ.

The Board, like the County Council, also recognizes that farms are income producing commercial businesses. (See BCZR §101, definition of Agriculture, commercial.) Agricultural operations often create noise, traffic and odors. In fact, the §1A01.5 of the zoning regulations addresses the “Inconveniences arising from agricultural operations.” Anyone who chooses to live in close proximity to a farm has been put on constructive, and in some cases, actual, notice of these. In fact, Baltimore County Code § 35-3-303 requires a contract for the sale of real estate in or within 500 feet of the RC 4 zone contain a notice of these inconveniences. The standard real estate contract adopted by the Greater Baltimore Board of Realtors includes that notice as part of a standard addendum attached to every contract. No one living in the RC zones can claim an agricultural operation constitutes a nuisance, if it complies with BCZR §1A01.5. The reality of a working farm belies the romanticized image and idyllic existence we are asked to embrace.

The scope of the Board’s determination in this matter is narrow, and is limited to the interpretation of whether the operation of the brewery violates the use as granted and as limited in Case No. 2017-327-X. As such, the Board’s role was not to retry the grant of the special exception, nor was it to consider issues relating to a conservation easement affecting the property. Despite much testimony attempting to limit parking (apparently based on the easement), the BCZR require *minimum* parking to be provided – rather than a maximum limit

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on parking. The use of paddock areas to provide additional parking, particularly if managed by attendants, could mitigate traffic queuing on the local roads.

A Special Hearing Petition is effectively a request for declaratory judgment. (BCZR § 500.7, *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005).) While the BCZR provides no specific criteria for the granting of a Request for Special Hearing, “the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing relief requested would be compatible with the community and generally consistent with the spirit and intent of the regulations.” *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. Ct. Spec. App. (Sept. Term 2016).

Based on all the testimony and evidence presented to the Board, the Board concluded that the operation of Inverness Brewery does not violate the conditions imposed by the 2017 Order. To the extent traffic and noise are incident to that use, the Board concludes, as did the ALJ, that these are “inherent in the operation of a farm brewery...Most, if not all special exception uses have such adverse impacts”, citing *Montgomery County v. Butler*, 417 Md. 271 (210).

The Board also finds that site and building modifications have occurred that are not reflected on the site plan approved in 2017, and to that extent, Inverness is in violation of the approved site plan.

The Board also recognizes that it may impose additional conditions offered during the hearing or suggested by counsel to provide some mitigation to nearby property owners. (See BCZR §502.2.) In the course of the hearing or in post hearing memoranda, most of the conditions we are imposing were suggested or agreed upon by counsel.

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In this regard, the Board has determined that certain conditions should be added or modified to clarify the 2017 Order. The exhibits referenced below are those identified in and attached to the Post Hearing Memorandum submitted by Respondents' counsel, unless otherwise noted.

ORDER

THEREFORE, IT IS THIS 26th day of August, 2022, by the Board of Appeals of Baltimore County

ORDERED that that the decision of the Administrative Law Judge in Case No. 2017-0327-X dated August 8, 2017 shall be affirmed subject to the following modifications and conditions:

1. Condition No. 4 from the 2017 Order shall be modified, as follows: "The brewery shall be permitted to produce, sell and/or distribute no more than 2,500 barrels of malt beverage per year";
2. A promotional event (Event) is an occasion when the brewery is open until 10:00 o'clock p.m., rather than the otherwise permitted 8:00 o'clock p.m. closing; such Events are limited to no more than eight (8) per year, each lasting up to three (3) consecutive days;
3. Music is permitted, but loud amplified music is not permitted;
4. Retail sales other than beer products shall be limited as accessory;
5. Inverness will install a gate at or near the entrance from J.M. Pearce Road to the farm road on the Property (as those roads appear on Owens Exhibit 23-012) such that no traffic coming to or from or serving the brewery may enter or leave the Property onto J.M. Pearce Road.
6. The cleared area shown on Owens Exhibit 23-004 will not be used for brewery parking, and may only be improved with a pole barn or storage building the use of which will be limited to farm storage and equipment.
7. Inverness shall install a permanent sound meter (to be selected with the assistance of the sound expert who testified at the hearing) on the Property boundary line along Markoe Road at the closest point between that boundary line and the bank barn, in order to

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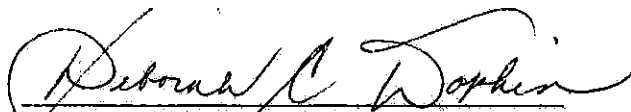
monitor the noise level from the brewery operations to avoid exceeding the decibel limits imposed by COMAR Section 26.02.03.03 and shall make sound readings available to the County or neighbors upon request;

8. Inverness will limit parking for day-to-day operations to the two acre area depicted on Exhibit A, and will limit parking to the four acre area depicted on Exhibit A for promotional events, in lieu of the 5.7 acre area that includes the paved parking area and four paddocks, subject to the potential for Inverness to modify and/or increase these areas by filing a petition for special hearing and holding a public hearing regarding the request to demonstrate the need for such modification/increase, to the satisfaction of the ALJ;
9. Inverness will install fencing and hardwood trees in the location shown on Exhibit B, in order to provide additional screening of the parking area when viewed from Markoe Road;
10. Inverness will install an evergreen tree buffer in the location shown on Exhibit C, in order to screen the potential for headlights shining toward the residents at 16405 JM Pearce Road;
11. Inverness will install an evergreen tree buffer at the location shown on Exhibit D, in order to provide additional screening when viewing the brewery from Markoe Road;
12. Inverness will reconfigure its fencing around the bank barn, in accordance with Exhibit D, in order to keep brewery patrons farther from Markoe Road;
13. Inverness will install an “Inverness Brewery” sign in the location shown on Exhibit E, in order to direct patrons toward the brewery (rather than onto adjacent properties), subject to compliance with applicable law and obtaining all necessary approvals to install the sign;
14. Inverness will reconfigure its access to/from the parking area as shown on Exhibit F, in order to eliminate the use of the farm road north of the parking area, which will direct all traffic in and out of the brewery via the entrance/exit located along Markoe Road nearest to the bank barn, and plant additional screening in this area, per Exhibit F.
15. Within forty-five days of the entry of this order, Inverness will submit a site plan, over the seal of an engineer, surveyor or landscape architect, incorporating the modifications and restricted areas shown on Exhibits A through F, as well as the modifications made since 2017 or to be made pursuant to this order and which plan complies with the zoning checklist promulgated by the zoning office (<https://resources.baltimorecountymd.gov/Documents/Permits/Zoning/zonecklst.pdf>).
16. Inverness shall submit a zoning petition and be subject to a public hearing for any future modifications to the brewery or site plan.

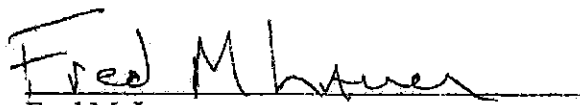
In the matter of: Samuel and Michaeline Yaffe and
Sparks-Glencoe Community Planning Council – Petitioners
Raymond and Sandra Frank – Legal Owner and Respondent
Inverness Brewing, LLC – Respondent
Case No.: 19-541-SPH

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Deborah C. Dopkin, Chair


Adam T. Sampson


Fred M. Lauer



Board of Appeals of Baltimore County

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August 26, 2022

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RE: In the Matter of: *Samuel and Michaeline Yaffee and
Sparks-Glencoe Community Planning Council – Petitioners
Raymond and Sandra Frank – Legal Owner and Respondent
Inverness Brewing, LLC – Respondent*

Case No.: 19-541-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

In the matter of: Samuel and Michaeline Yaffe and
Sparks-Glencoe Community Planning Council -- Petitioners
Raymond and Sandra Frank -- Legal Owner and Respondent
Inverness Brewing, LLC -- Respondent

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Case No.: 19-541-SPH

Very truly yours,



Krysundra "Sunny" Cannington
Administrator

KLC/taz

Enclosure

Multiple Original Cover Letters

c: Raymond and Sandra Frank/Inverness Brewing, LLC
Samuel and Michaeline Yaffe
Sparks-Glencoe Community Planning Council
Caroline Foster Owens
Richard and Adele Reinhardt
Lawrence and Deborah Serra
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law